

REMARKS

STATUS OF THE CLAIMS

Claims 1-23 are pending as originally filed.

NEW MATTER

The previous amendment to the specification was objected to under 35 U.S.C. § 132 for allegedly introducing new matter into the disclosure of the invention. (Final Office Action, paragraph 1). In particular, the description of new Figure 6 was objected to for reciting a non-overlapping device having a linear (non-relaxed) configuration within a delivery catheter. *Id.*

Applicants submit that no new matter was added and, accordingly, request the objection be withdrawn.

The proscription against the introduction of new matter in a patent application (35 U.S.C. 132 and 251) serves to prevent an applicant from adding information that goes beyond the subject matter originally filed. See, e.g., *In re Rasmussen*, 650 F.2d 1212, 1214, 211 USPQ 323, 326 (CCPA 1981) and MPEP § 2163.06.

In the pending case, the alleged “added” information does not in any way go beyond the subject matter originally filed. Applicants note that the specification as filed clearly indicates that the non-relaxed configuration of the devices is linear and that this non-relaxed configuration is the configuration within the delivery catheter prior to deployment. See, e.g., page 6, line 15 to page 7, line 4, particularly page 6, lines 19 to 26, indicating that the devices are in a linear configuration until deployed from a restraining member such as a catheter. Thus, there is nothing in the previous amendments that goes beyond the originally filed subject matter and, accordingly, new matter has not been added.

Nonetheless, to expedite prosecution, the term "non-relaxed" has been replaced with the term "primary," as defined on page 6, lines 19-21.

In view of the foregoing remarks and amendment, Applicants request that this objection be withdrawn.

35 U.S.C. § 102

Claims 1-8 and 10-23 were again rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent No. 6,638,291 (hereinafter "Ferrera"). With particular references to Figs. 2-3B, it was again alleged that Ferrera discloses a device having non-overlapping loops in its relaxed configuration. (Final Office Action, paragraph 3). In response to Applicants' previous arguments, the Examiner stated that "the device as claimed [has] the same overlapping configuration as indicated by the applicant shown in figure 2 above." (Final Office Action, paragraph 6).

Applicants again respectfully traverse the rejection.

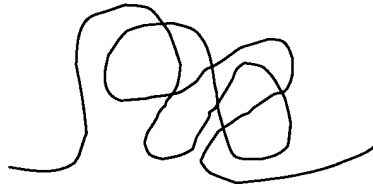
In fact, the arrows added by the Examiner to Applicants' FIG. 5 do not point to overlapping loops. As described throughout the specification, "non-overlapping" refers to a three-dimensional structure in which the loops do not cross over each other. The arrows added to FIG. 5 point to areas that appear to overlap only because this drawing is a two-dimensional representation of a three-dimensional structure. In other words, the arrows point to structures, which when viewed face-on in three dimensions (instead of from side in two-dimensions) are actually as far apart and, as non-intersecting, as the sides of the C-shaped loop shown facing the viewer in FIG. 5.

Put another way, if one were to trace the path made by the four loops of the device shown in FIG. 5, the path would be essentially as follows:



Quite simply, the loops of the device shown in FIG. 5 of Applicants' specification do not overlap in the actual three-dimensional structure. Rather, each loop of the structure shown in FIG. 5 has the shape of the front-view loop shown in the foreground of this figure. There is no overlap with adjacent loop structures. Thus, the arrows placed by the Examiner do **not** point to overlapping loops of the claimed device.

By contrast and as previously noted, even the frontal view of Ferrera's device shows intersecting loops (*e.g.*, at the bottom). Thus, tracing a path along the loops of Ferrera's device would result in a path looking something like this:



Clearly, Ferrera's loops are overlapping and, accordingly, this reference does not disclose, expressly or inherently, devices as claimed in which the relaxed configuration is made up of non-overlapping loops. Therefore, Ferrera cannot anticipate the pending claims and withdrawal of this rejection is respectfully requested.

35 U.S.C. § 103

Claim 9 was rejected as allegedly obvious over Ferrera. (Office Action, page 3). It was maintained that it would have been obvious to employ additional filamentary material into Ferrera's device in order to optimize occlusion. *Id.*

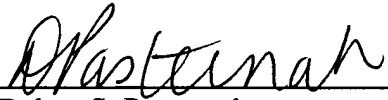
For the reasons noted above, Ferrera does not expressly or inherently disclose devices comprising non-overlapping loops. Accordingly, this reference cannot render obvious claim 9 and withdrawal of this rejection is in order.

CONCLUSION

Applicants submit that the claims are in condition for allowance and request early notification to that effect. If the Examiner has any further issues or wishes to discuss any of the foregoing, she is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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